

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 20-MJ-955

CHARLES JUSTICE,

Defendant.

**MOTION TO RECONSIDER ORDER OF DETENTION
PENDING TRIAL AND TO ALLOW REASONABLE CONDITIONS OF RELEASE**

Charles Justice, by and through undersigned counsel, Joe M. Romero, Jr., Romero & Winder, PC, moves this Court to reconsider its March 19, 2020 Order of Detention Pending Trial, and allow Defendant's release subject to reasonable conditions of release, and to set a hearing on this motion.

1. Defendant is charged in a Criminal Complaint, No. 20-MJ-955 with Unlawful Importation of a Firearm, in violation of 18 U.S.C. § 922(l) and Possession of an Unregistered NFA Weapon (silencer), in violation of 26 U.S.C. § 5861(d). Neither of these related offenses provide for a mandatory minimum sentence. The more serious offense, 26 U.S.C. § 5861(d), provides a statutory maximum sentence of ten (10) years and, prior to any downward guideline adjustments, a maximum guideline sentence of 63 to 78 months.

2. Defendant denies any intentional criminal conduct on his part. As a firearms hobbyist, collector, and enthusiast, as well as someone who has safely handled and operated firearms his entire life, Defendant lacked any intent to commit a crime. Throughout his life,

Defendant has purchased only firearms or firearm related products that he understood or reasonably believed to be lawfully sold products, in this case products that were advertised for sale, online, by what he understood to be an American owned and operated company.

3. There is no evidence based on Defendant's past history that suggests he is a flight risk or danger to the community. Defendant is a 27-year-old native of Melbourne, Florida. He is married to his high school sweetheart, Beatrice Ottomanelli. He and his wife have a one-year old child. The Defendant has served on active duty with the U.S. Air Force since 5 May 2014, where he works as a security control center supervisor at Kirtland Air Force Base. His current rank is E-4 or Senior Airman. He possesses a security clearance level of "Secret" which, after a thorough and intensive background investigation, authorizes the Defendant access to classified information or access to sensitive government facilities.

4. Prior to his arrest on the pending federal Criminal Complaint, dated 16 March 2020, Defendant was charged with identical offenses by military authorities pursuant to the Uniform Code of Military Justice (UCMJ). After being initially detained in the UCMJ proceeding, a Pretrial Confinement Review hearing (the equivalent of a release hearing) was held at Kirtland Air Force Base on 26 February 2020. *See* Pretrial Confinement Review Memorandum, date 26 February 2020, attached hereto as Exhibit A.

5. After an extensive hearing, in which multiple family members and military members testified, the hearing officer (Col. David Carlson) concluded that Defendant should be release. In pertinent part, Col Carlson stated as follows:

b. There is no indication SrA Justice is a flight risk. SrA Justice's wife and young child live on Kirtland Air Force Base which makes him less likely to flee the area (i.e. SrA Justice has ties to the locale). Additionally, according to the written statement of the Mrs. Ottomanelli, SrA Justice's wife, his passport was seized - and no contradictory evidence or testimony was admitted stating otherwise (attachment 12). There is also no indication that SrA Justice has a history of

failing to appear for other appointments....First Sergeant, SMSgt Michael Rumora, testified he did not believe SrA Justice was a flight risk (see para 5(g)). Finally, several individuals with a close relationship to the SrA Justice- his spouse, Mrs. Jennifer Ottomanelli, SSgt Gardner, and TSgt Anderson- reiterated they did not believe SrA Justice was a flight risk. For example, his mother-in-law, Mrs. Jennifer Ottomanelli stated, "I am confident that he would never hurt anyone or flee from his circumstances. I am 100% certain that he is not a danger to his family or himself" (attachment 13). In short, there was no specific, articulable evidence presented indicating SrA Justice was a flight risk beyond the general nature of the allegations.

c. By a preponderance of the evidence, I find that SrA Charles Justice is not likely to commit serious criminal misconduct if released from pretrial confinement. SrA Justice's closest friends, colleagues, and family members were unanimous that SrA Justice has never verbally or physically threatened others. SSgt Gardner and TSgt Anderson, who have both known him for four years, both stated that SrA Justice is a calm, level-headed person and they have no reason to believe he would harm others (see para. 5(c) and 5(d)).

See Pretrial Confinement Review Memorandum, at ¶ 6.b. and ¶ 6.c.

6. After the Pretrial Confinement Review hearing, Defendant returned to work and was in full compliance with his conditions of release while his UCMJ case was pending. The only change that occurred was that on or about 16 March 2020, Defendant was arrested and the same charges that were pending in the UCMJ action were re-filed in U.S. District Court in the District of New Mexico.

7. Given the aforementioned information, the Defendant Charles Justice contends, as confirmed by his prior compliance with his UCMJ conditions of release, he does not pose a serious risk of flight or of danger to the community and should be released on conditions deemed appropriate and reasonable by the Court.

8. AUSA Jon K. Stanford opposes this motion.

WHEREFORE Defendant Charles Justice respectfully requests this Court enter an Order releasing him pending trial subject to reasonable conditions of release as deemed just and proper

by this Court.

Respectfully Submitted,

/s/ Joe M. Romero, Jr.

Joe M. Romero, Jr.

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Certificate of Service

I hereby certify that, on April 16, 2020, the foregoing pleading was filed electronically pursuant to CM/ECF procedures for the District of New Mexico, which caused the parties and/or their counsel to be served by electronic transmission, as more fully reflected by the Notice of Electronic Filing.

/s/ Joe M. Romero, Jr.

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